

1901-031 Chancery Causes: John S. Larmer vs. Mary S. Larmer, widow to
Lee Co. Mary S. Larmer, assign. to vs. Sada Larmer &

Barbree, Skaggs, Wilson, McClure, Loyd

CA-Estate Dispute

T-Property

To the Hon. W. T. Miller Judge
of the Circuit Court of Lee County:
Your orator John S. Larmer
complaining sheweth unto the Court that
Your complainants father T. J. Larmer
was in his lifetime ^{was} seized and possessed
of certain real estate lying in the County
of Lee and in the Hickory Flats country, said
real estate being all of that tract of land
conveyed by deed to the said T. J. Larmer
by his father John Larmer and his
mother Elizabeth Larmer on the 20 day
of Jan. 1871, which deed was duly admitted
to record in the clerks office of Lee County
in deed book No. 16, page 188, a copy of which
deed is filed herewith marked exhibit "A" and
prayed to be read as a part of this bill,
except about 10 acres which was sold by
your orators father the said T. J. Larmer
to John Jesse, whose heirs conveyed the same
after his death to Mary S. Larmer your
orators mother and the widow of the said
T. J. Larmer, by deed bearing date of the
day of 1879.

And being so seized and possessed, the
said T. J. Larmer on or about the day
of 18 died intestate, leaving
your orator, and Ida Larmer, Sader Larmer,
Kitty Larmer, Ernest Larmer and Emma Larmer,

his only children and heirs at law. The said Ida Larmer since arriving at her majority, has sold and conveyed her right and interest to her mother Mary S. Larmer.

The said Sada Larmer, Kitty Larmer, Ernest Larmer, and Emma Larmer, are infants under the age of twenty-one years, the said Sada & Kitty are however over fourteen years. And your orator further states that the said real estate is as he believes, susceptible of partition among the parties entitled thereto; but if it cannot be so divided then your orator desires that the same may be sold and the proceeds divided among the adults and infants parties according to their respective rights, the shares of the infants to be held as directed by the statute in such case made and provided. Should the property not be divisible in kind, complainant believes, and here states, that the interests of those who are entitled to the said real estate, or its proceeds, will be promoted by a sale of the whole of the same. Forasmuch, therefore, as your orator is remediless in the premises save by the aid of a court of equity, he prays that the said Mary S. Larmer, Sada Larmer, Kitty Larmer, Ernest Larmer, and Emma

Farmer may be made parties defendants
to this bill and required but not ~~under~~ ^{on their}
oaths, to answer the same, the oath being hereby
waived, the said adult in her own proper name
and person, and the infants by guardian
ad litem; That a proper guardian ad litem be
appointed to this cause for said infants
who shall also answer this bill; that proper
process issue; that the said real estate be
divided between the parties entitled thereto,
or else that it be sold and the proceeds
divided, in case it be indivisible in kind
that all proper orders and decrees may be
made, accounts taken and enquiries be directed;
and that all such other, further and general
relief as in the premises may be just and
right may be granted, and your complainant
will ever pray, etc.

J. B. Noel p. g.

Pliffs Costs
 Clerk 6.86
 Tax 1.50
 J. L. Noel 3.00
 Atty 15.00
 J. P. 2.25
 Exits 2.00
 L. A. L. 10.00
 Howard Const. .60
 \$41.21

Jno. S. Larmer
 vs Bill in Chancery

Mary S. Larmer et al
 1899 2nd September rules
 bill filed & pa & executed
 and decree nisi
 " 1st October rules decree
 nisi confirmed and
 cause set for hearing

1901 June Term Decree
 final Order Book
 No 6 p 553

To the Hon. H. A. W. Sken. Judge of the
Circuit Court of Lee County:

Your oratrix Mary S. Harmer, widow of Thos. J. Harmer
deceased, assignee of Sada Harbre nee Harmer, and guardian
of Sada Harmer, Kittie Harmer, Ernest Harmer and Emma Harmer
infant-children and heirs at law of Thos. J. Harmer deceased, complaining
sheweth unto the court that John S. Harmer on the day of
1899, filed his bill of complaint in this court
against your oratrix and Sada, Kittie, Ernest and Emma
Harmer the infant-children and four of the six heirs of
Thos. J. Harmer deceased, wherein he set forth the interest
of himself, and of your oratrix and of the said infants
in a certain tract or parcel of land, fully described in
his said bill and exhibits filed therewith, of which land
the said Thos. J. Harmer died seized, and wherein he further
sets forth that the said lands is susceptible of partition
among the parties entitled thereto, and that if said lands
cannot be so divided, that the interests of those who are
entitled to said real estate or its proceeds, will be promoted
by a sale of the whole of the same; and thereupon he prayed
that your oratrix and the said infants be made parties to said
bill and that they be required to answer the same, that the
said real estate be divided between the parties entitled
thereto, or else that it be sold and the proceeds divided
in case, it be indivisible in kind, etc.

So truthfully has the said bill set forth the facts in said
premises that your oratrix deemed answer unnecessary, and
therefore has not answered the same, but if answer be demanded
she prays that this cross-bill be treated as answer; and while
all that is contained in said bill is true, your oratrix further
sheweth unto your honor that since the filing of the said
bill of complaint, the said complainant, your oratrix and

1 the said infants have all changed their residence and
2 citizenship from the County of Lee and State of Va, to Hunt-
3 County Texas, where they intend to reside in the future;
4 that since becoming citizens of the State of Texas, your
5 oratrix has qualified as guardian of the said infants and
6 executed bond in a penalty sufficient to secure to said
7 infants any sum of money that may come into her hands
8 by reason of the sale of said lands and the transfer of the
9 proceeds thereof to her as said guardian, as will be seen by
10 reference to the exhibit filed herewith marked "A", and
11 which is prayed to be read as a part of this bill; that
12 the said infants are entitled to four sixths of the fee simple
13 in the lands described in said bill, subject however to the
14 dower of your oratrix, and that the said John S. Warner is
15 entitled to one sixth thereof subject to said dower, and your
16 oratrix is entitled to the residue, and to dower which has
17 already been assigned; that the said infants own
18 no other real estate nor interest in any other real estate,
19 and that they own no personal property at all; that
20 Sada, Kittie, and Ernest, the three older of the said infants
21 are over the age of fourteen years, your oratrix the mother
22 of said infants, would be sole heir, if said infants were dead.
23 Your oratrix states that the interests of the said infants
24 would be promoted by a sale of said lands, both from the
25 forementioned, and for the following reasons, to wit:

26 The said infants are now residents of a foreign state,
27 hundreds of miles away from their lands; that in all proba-
28 bility they will never return to Lee County to reside;

29 The amount of land to which any one of said infants would
30 be entitled, would not be sufficient to furnish a home that
31 would be enticing, nor alone attract a purchaser; the said
32 infants have no other estate than their interests in

1 said lands, and as fast as they arrive at their majority, they
2 will be forced to sell said lands, and therefore would
3 have to sell at a great sacrifice, if able to find a
4 purchaser at all; that each interest in said land
5 would not be worth more than five or six hundred dollars at
6 best; and should the lands be partitioned, the shares at
7 the time the younger infants arrive at majority would perhaps
8 be run down till price for same would not justify a return
9 to Virginia to look after the sale of same; that the
10 lands are so situated as to make the whole a desirable
11 and attractive farm, and would bring a good price as such,
12 but that the individual shares would not attract purchasers,
13 and the said infants as they become of age will need
14 the proceeds of said land and the elder ones could not wait
15 till the younger become of age that all may sell together.

16 Your oratrix further states that the rights of no person
17 will be violated by a sale of the said real estate.

18 Wherefore your oratrix prays that the infants, Sada Garner,
19 Kittie Garner, Ernest Garner, and Emma Garner, and
20 the complainant John S. Garner be made defendants to this
21 bill, that H. O. Ballou be appointed guardian ad litem for said
22 infants, that the said parties and the said guardian ad litem
23 be required to answer this bill but not upon oaths, the oaths
24 being hereby waived; that proper process issue; that the said
25 tract of land with dower excepted, be sold and the proceeds of
26 the said sale or so much thereof as may belong to said infants
27 be transferred to your oratrix as guardian of said infants,
28 to be invested for the benefit of said infants as the court
29 may direct; that all proper orders and decrees may be made,
30 and that all such other further and general relief as in the
31 premises may be just and right may be granted. And your oratrix
32 will ever pray etc.

* Mary S. Larmer, widow of Thos. J. Larmer deceased
assigner of Jda Barlow, ne Larmer, and guardian of Sada, Kitten
Ernest and Emma Larmer. J. C. Hall p. g.

State of Texas, Hunt County Court:

J. M. Newton J. P. R. Off. - notary public for
the county and state aforesaid, hereby certify that
Mary S. Larmer, personally appeared before me
in my county aforesaid, and made oath that
the allegations contained in the foregoing bill, which
she makes of her own knowledge are true, and that all
other matters therein stated she believes to be true. Given under
my hand this 16th day of December 1899

J. M. Newton H. P.
J. P. R. Off. Notary Public

Mary S. Larmer
vs. Larmer, Dec.

J. S. Larmer et al
Filed December 28th 1899
A. B. Munsey Clerk

The joint and separate answers of Sada Larmer
Kittie Larmer, and Ernest Larmer, infants over the
age of fourteen years, to a cross bill filed against
them, and Emma Larmer infant, under the age of
fourteen years, and John S. Larmer, to the bill
of complaint filed, by the said John S. Larmer
complainant, against the said Mary S. Larmer
Emma Larmer, and your respondents, in the circuit
court of the County of Lee.

These respondents for answer thereto, answers
and say that they have been shown, and
heard read the said cross bill filed by the
said Mary S. Larmer, in the cause of J. S.
Larmer against the said Mary S. Larmer and
others, and so far as they are able to understand
by reason of their infancy, they believe that
the said bill is true in every particular.
And having fully answered the complainant's
bill prays to be hence dismissed with their
reasonable costs, by them expended in this
behalf, and they will ever pray etc.

+ Sada Larmer

+ Kittie Larmer.

+ Ernest Larmer

} Infants over the age of
fourteen years.

State of Texas, County of Hunt-

This day personally appeared before me *W. A. Neely*
Ex. Off. Notary Public for the county and state aforesaid ~~and~~
Sada Larmer, Kittie Larmer, and Ernest Larmer,
whose answer is above written and made oath that the
statements contained in the said answer, so far as
made of their own knowledge, are true, and so far as
made from knowledge, or information derived

from others, they are believed to be true.

Given under my hand this 16 day of December 1899

J. M. Keister

H. P.

JP. Pub. Off. Notary Public

Barbara Warner et al
vs
Adolf Knochen et al

Mary S. Warner

Filed Dec. 28th 1899

A. B. Mursey Clerk

The joint and seperate answer of Sada Larner, Kittie Larner, Emma Larner,
and Earnest Larner, infants under the age of twenty one years, ~~#####~~
by H.O. Ballou, their guardian ad litem-assigned to defend them in this
Suit to a bill of complaint exhibited against them and Mary S. Larner,
widow of T.J. Larner, (deceased) and assignee of Ida Barbree, nee Larner,
in the Circuit Court for the County of Lee, by J.S. Larner, and to a cross
bill filed in the said Court by the said Mary S. Larner, to the said bill
of complaint against them and the said John S. Larner,.

The respondents reserving unto themselves the benefits of all just excep-
-tions to said of complaint and to said cross bill, for answer thereto,
or to so much thereof as they are advised that is material they should
answer, by their guardian -ad--litem answer and say:

That they are infants of tender years, and by reason of their infancy, are
incapable of understanding or of taking care of their rights and inte-
rest. They, therefore, by their said guardian commend themselves and their
rights and interests to the protection of the Courts, and pray that no
decree may be pronounced which will tend to their prejudice.

And having fully answered the said respondents pray to be thence dism-
-issed with their reasonable costs in this behalf expended, and they will
ever pray, etc.

H. O. Ballou,
Guardian----- Ad-litem.-----

For Sada, Kittie, Earnest, and Emma Larner,)

~~#####~~

Sworn to before me by H. O. Ballou Jan'y 1st 1900
A. B. Murreey Clerk

Sada Larnen, et al
ads. { Answer of infants
by Guardian ad litem
Jr. S. Larnen,

1900 1st January rules And of
S. A. L. Filed
A. B. Munnery clerk

J. S. Larmer
vs
Mary S. Larmer et al } in Chancery.

This cause came on again this 3rd day of June 1901, to be finally heard upon the papers formally read in this cause, and upon the report of J. C. Noel Special Commissioner, filed this day, and was argued by Counsel, and said report being unexcepted to, it is therefore adjudged ordered and decreed that said report be accepted and adopted. ~~It further~~ and the deed made and executed to Henry Nicoll is confirmed. ~~It further~~ appearing that the money received by him from the said Henry Nicoll has been disbursed by said Noel, according to the order entered in this cause on the 6 day of March 1901, it is therefore adjudged, ordered and decreed that ~~said~~ said Commissioner be and is hereby discharged from further duty as such and this cause is stricken from the docket.

J. S. Larmer
vs Deere Final
Mary S. Larmer et al
Entered on Chy
C.B. No 6 P. 553

Entered June 4th 1901
H. A. W. Sheen
Judge

John S. Garner

vs

In Chancery

Mary S. Garnmugat

This cause came on this the 12 day of March 1901, to be again heard upon the papers formerly read in in this cause and upon the report of Special Commissioner J. B. Noel, and the deed made by said Commissioner J. B. Noel to Henry Nicoll, and was argued by Counsel. In consideration of all which, the said report and deed being unexcepted to, it is therefore adjudged ordered and decreed that the said report and deed be and the same is hereby confirmed. It is further adjudged ordered and decreed that the said Henry Nicoll shall pay the said J. B. Noel Commissioner as aforesaid the sum of five dollars for making said deed and this cause is continued.

John S. Garmon
20 } Deed
confirming of
Deed

Mary S. Garmon et al

Entered on C.O.B.
No. 1. P. 537.

Entered Mar 12,
1901. 14 a w Shu
J. C. Lige

John S. Larmer
vs
Mary S. Larmer et al } In Chancery.

This cause came on this day of March 1901, upon the papers formerly read in this cause, and the report of the ^{J. B. Noel} Commissioner, of the sale of the lands described in said cause, and was argued by counsel, and it appearing that the said report has been filed for more than ten days as is required by law, and that the same is unexcepted to, it is therefore adjudged, ordered and decreed that the said report be and the same is hereby confirmed, and it is further adjudged, ordered and decreed that J. B. Noel, who be and is hereby authorized to receive and collect from the said Henry Nicoll the said \$3000.00, the purchase price of said land, and that he will pay first the costs of this suit and the commissions of said sale out of the money so collected by him, and the residue he will pay Mary S. Larmer one sixth, John S. Larmer one sixth, and the remaining four sixths he will pay over to Mary S. Larmer, the foreign guardian of the infant defendants, to be invested by her in real estate in the state of Texas to be held and invested by her according to the laws of the state of Texas in such cases made and provided. It is further adjudged, ordered and decreed that J. B. Noel who is hereby appointed a special commissioner for the purpose, will make and execute a deed of conveyance unto the said Henry Nicoll, for the said lands, with covenants of special warranty, and he will report his action to this court.

John S. Larmur
Decree confirming
vs Report of S. L. Larmur
Mary S. Larmur et al
Entered on C.B. 6 P. 502
73.

Entered this 6
day of March 1701
H. W. Shum

Judge

John S. Larmer
vs

Mary S. Larmer et al.

This cause came on this day to be heard upon the plaintiffs bill, and the answer of Sada Larmer, Kittie Larmer, Emma Larmer, and Ernest Larmer, infants under the age of twenty one years, by their guardian ad litem, and upon the cross bill of Mary S. Larmer one of the defendants in said bill of complaint, and guardian at law under the laws of the state Texas of said infants, who too are ^{now} residents of said State of Texas, and upon the answer of said infants by their guardian ad litem, to said cross bill, and the joint and separate answer of Sada and Kittie Larmer, two of said infants over the age of fourteen years, and it having been fully shown by authentic documentary evidence that the said Mary S. Larmer foreign guardian of said infants, has where qualified, given bond with surety, sufficient to insure her accountability for the whole amount of the said infants estate in the lands mentioned and described in the said plaintiffs original bill and the said cross-bill; and it being clearly shown, independently of any admission in the answers, that the interests of the said infants, will be promoted, and the court being of the opinion that the rights of no person will be violated by the sale of said lands, ~~it is therefore adjudged~~ that the depositions in said cause were

1 Taken in the presence of the guardian
2 ad litem; it is therefore adjudged, ordered
3 and decreed that all of the lands mentioned
4 and described in said original bill of
5 complaint, and in said cross bill, be
6 sold, and that J. S. Noel is hereby appointed
7 ~~to make~~ a special commissioner of this court
8 to make said sale; and it is further ordered
9 ~~and~~ adjudged and decreed that said
10 commissioner shall first execute bond with
11 the clerk of this court in a penalty of
12 \$5000.00, for the faithful performance of
13 ~~said~~ ^{his} duties as said commissioner and
14 for the ~~faithful~~ proper application and
15 disposition of the proceeds of said sale
16 according to the future order of this court;
17 and after the execution of said bond,
18 the said commissioner, shall proceed
19 to advertise the sale of said land
20 by pasting notices of the time and
21 ^{and times} place of said sale for at least thirty
22 days at the front door of the court-
23 house, and at two or more public
24 places in said county, and that said
25 Commissioner sell all off said lands subject
26 to the widows dower, provided the same with
27 dower excepted be not for less than
28 \$3000.00; and it is further ordered, adjudged
29 and decreed that the terms of said sale
30 shall be one ~~two~~ a credit of one, two
31 and three years time, except enough of
32 said sale shall ^{be} for cash in hand, as

may be necessary to pay costs and
commission of said suit; the said
commissioner taking for the purchase
money on the deferred payments promissory
notes or bonds with ample security,
^{made payable to himself as commissioner}
and in addition thereto retaining a
lien on all of said lands for a further
security for the payment of said purchase
money; and the said commissioner is
hereby authorized to make private sale
of said land, if he shall deem it
more advantageous to interest of said
infants, subject to the ratification
of this court; and it is further adjudged
ordered and decreed that the said
plaintiff recover his costs in this cause
expended including an attorneys fee
of \$1500, which said costs are apportioned
as follows, to wit: one sixth thereof to be
paid by said plaintiff, and the residue
thereof to be taxed against the five defen-
dants, Mary S. Larmer, Sada Larmer
Kittie Larmer, Emma Larmer and
Ernest Larmer; and that out of the
proceeds of said sale, H. C. Ballou guardian
ad litem, be paid by said commission
the sum of \$1000 for services rendered
by him as said guardian, and that
the said sum ~~of~~ be apportioned
ratably among the parties of this suit,
and returned from the amounts due them
on final disposition of this cause.

And the said Commissioner to
report his action to this court
to this court at the next term thereof
and this cause is continued.

John S. Garner
vs Decree
Mary S. Garner et al

Entered
H. R. W. D. H.
Entered on Chex Ind
Book Page 350

J no S. Garner Plff

vs

Mary S. Garner et al

} In Chancery

On the calling of this cause,
The defendant Mary S. Garner
asked leave to file a cross bill
making the said plaintiff and
the infant defendants to plaintiffs
bill, defendants to said cross bill.

The said cross bill to
be for the purpose of asking
a decree to sell the lands
asked to be partitioned in said
plaintiffs bill, and to have
the proceeds from sale of said
lands transferred to the guardian
of said infants in the state of
Texas, which leave was granted
by the court and the said Mary
S. Garner was directed to have
said bill filed with the clerk
by the first January term, 1900
to which cross bill the infant
defendants may answer by their
own guardian ad litem, appointed under plaintiffs bill
and the said infants who are
over 14 years of age, may also
be permitted to answer in their own
proper person in the court and it is
ordered, adjudged and decreed
that the plaintiff may proceed to
take depositions for the purpose
of proving that the interests

and the same will be promoted
by the sale of said bonds, as
though said cross bill had
been filed in open court,
and this course is continued

J. S. Harrison
no. 120 } Jackson

Mary E. Harrison

Entered vol
Chy 10 B. 706
P. 347.

Collected
14 a.m.

December Term 1899.
Estate of Sadie Lammes No. 603
Legal Minors

This day came
on to be heard the
Application of Mrs. Mary Lammes, for letters of
Guardianship on the person and estate of Sadie
Kittie, Ernest and Emma Lammes, Minors
under fourteen years of age, And it appearing
to the Court, that due notice of said application
has been given, and that said minors have
no lawful guardian, of their person or
Estate, and that Mrs. Mary Lammes, is qual-
ified to receive letters of Guardianship.

It is therefore Ordered, that Mrs. Mary Lammes
be and is hereby appointed Guardian of the
person and estate of above named minors, and
that letters issue to her, on her giving Bond in
the Sum of Six Thousand Dollars, payable and
Conditioned as required by law, and taking
the oath within twenty days.

Order
approving
Bond

Estate of Sadie Lammes No. 603.
Legal Minors This day came Mrs.
Mary Lammes Guar-
dian of the person and Estate of Sadie, Kittie
Ernest and Emma Lammes Minors, and
presents to the Court, her Bond as Guardian
of above named Minors in the Sum of Six-
Thousand Dollars, with Charles L. Lytton,
A. C. Lytton and Sarah J. Dougherty Jurats
thereon, and the same having been examined
by the Court, and found in due and legal

form, and sufficient in quantity and security is approved, and ordered recorded in the Minutes of this Court. And it further appearing to the Court, that Mrs. Mary Larmer has taken the oath as required by law, it is therefore ordered that letters of Guardianship be issued to her, and that she enter upon the discharge of her duties as Guardian aforesaid.

copy
of
Bond
The State of Texas
County of Hunt In County Court.
Hunt County, Texas.

Know all Men by these Presents: That the Mrs. Mary Larmer as principal, and as sureties, are held and firmly bound unto R. D. Thompson, County Judge of the County of Hunt and his Successors in office in the sum of Six Thousand Dollars, conditioned that the above bound Mrs. Mary Larmer, who has been appointed by the County Court of Hunt County, Guardian of the Estate of Sadie Larmer, Kittie Larmer, Ernest Larmer and Emma Larmer, Minors, will faithfully discharge the duties of Guardian of the Estate of the said minors according to law.

Witness our signatures, this 16th day of Dec. A.D. 1899.

Mary Larmer
Charles L. Lytton
A. C. Lytton
Sarah D. Daugherty.

Approved this 19th day of Dec. A.D. 1899.

R.D. Thompson County Judge
Hunt Co. Texas.

The State of Texas
County of Hunt I, Mrs Mary Larmer
do solemnly swear, that
I will faithfully discharge the duties of Guardian
of the Estate of Sadie Larmer, Kittie Larmer
Ernest Larmer and Emma Larmer,
Minors according to law.

(Signed) Mary S. Larmer
Guardian

Subscribed and sworn to before me, this 18th day
of Dec. A.D. 1899.

(Seal)

J. M. Newton J.P. Ex. off.
Notary Public Hunt
Co. Texas.

The State of Texas
County of Hunt I, W.C. Stevenson Clerk of the
County Court in and for Hunt Co.
Texas, do hereby Certify that the above and fore-
going is a true and correct copy of the orders
Granting letters of Guardianship to Mary S. Larmer,
& the order approving her bond as Guardian
of Sadie Larmer, et al Minors, together with
a copy of her Bond & each now on file among
the papers in the above numbered & styled
Cause. Witness my hand and official seal
this 26th day of Dec. 1899.

W.C. Stevenson County
Clerk Hunt Co. Texas

State of Texas, J. D. R. D. Thompson, Judge of
County of Hunt } the County Court of the County
and State of Texas do hereby certify that the
above attestation of the Copy of the orders
of this court quodiorum bond and
oath, bearing date Dec. 26, 1899, and un-
der the signature and official seal
of W. C. Thompson County Clerk of Hunt
County Texas, is according to the form
used in this state.

Given under my hand & official
seal, this January 11, 1900.

J. D. Thompson
County Judge, Hunt Co., Tex.

Explain of
Sadie Lammie
et al minors

Exhibit "A"

To Sada Garner, Kittie Garner, Earnest-Garner and Emma Garner infants under twenty one years of age, and H.C. Ballou guardian ad litem, for the aforesaid infants, in a certain suit now pending in the circuit court of Lee County Virginia, in which John S. Garner is plaintiff in original bill filed in said suit, and you and I are defendants, and in cross bill filed in said cause, I am plaintiff, and you and the said J.S. Garner ~~are~~ defendants, you and each of you are hereby notified that on the 13 day of February ¹⁹⁰⁴ between the hours of 9 A.M. and 4 P.M. at the law office of J.C. Noel in the town of Pennington Gap, Virginia, I will proceed to take the depositions of F.H. Wilson and others to be read in my behalf in the aforesaid suit pending as aforesaid, both on the original bill and the cross bill filed in said suit, or on either of said bills, on the hearing thereof before the said circuit court of said county, and if from any cause the taking of said depositions be not commenced on that day, or if commenced, ~~if~~ they be not completed on that day, the taking of said depositions be adjourned and continued from time to time at the same place and between the same hours until they are completed.

Respectfully,

Mary S. Garner.

Per J.C. Noel counsel for Mary S. Garner and

J.S. Garner.

Mary S. Larmur et al
also { notice to take
Depositions

J. S. Larmur

I hereby waive legal services
of the within notice to take
depositions, both as to myself and
the infants therein named.

W. O. Ballard,

Guardian ~~ad litem~~ for ~~Henry~~

Sarah, Fittie, Earnest and Emma Larmur.

July 1st 1900

Virginia Lee County Court:

To the Sheriff or any Constable of said County:

You are hereby commanded to summon Lafayette Loyd, F. R. Wilson, and A. R. McClure to appear before me ^{or such other justices may be there} at the law office of J. L. Noel in the town of Pennington Gap in the said County of Lee, on the 13 day of Feb. 1900, at 9 o'clock A.M. to depose and the truth to speak in behalf of Mary S. Larmer in a certain suit ~~and~~ now pending in the Circuit Court of said County of Lee, in which John S. Larmer is plaintiff and the said Mary S. Larmer and others are defendants.

Given under my hand this the 8 day of Feb. 1900.

W. T. Orr *clerk*

Mary S. Larmer et al
also Subonin for
witnesses

J. S. Larmer

Excluded on the
12th day of Feb 1900
by J. S. Larmer
& witnesses J. S. Larmer
& J. S. Larmer
J. S. Larmer
Cost - 60.

(1)
The depositions of J. F. Skaggs, F. K. Wilson

taken before me W. T. Orr a Justice of the peace in and for the Lee County Virginia, pursuant to notice hereto annexed, at the law office of J. C. Noel in the town of Pennington Gap in said County of Lee, between hours of 9 o'clock A. M. and 4 o'clock P. M. to be read in evidence in behalf of Mary S. Garner in a certain suit depending in the Circuit Court of Lee County, wherein J. S. Garner is plaintiff and the said Mary S. Garner, and Sada Garner, Kittie Garner, Ernest Garner and Emma Garner are defendants, the last four being infants.

Present: J. C. Noel, Counsel for Mary S. V. S. Garner.

" H. O. Ballou, Guardian ad litem for infants, Sada, Kittie Ernest & Emma Garner.
J. F. Skaggs, a witness of lawful age being duly sworn, deposes and says as follows:

Ques (1) State your age, residence and occupation:

Ans I am 46 years old, my residence is Lee County and I am a farmer by occupation

Ques 2 Do you know the lands of which F. J. Garner died seized, and which are in controversy in this suit?

Ans I have seen the farm and know it by reputation?

Ques 3 What do you consider the farm worth excepting the widows right of dower?

Ans. I should think it worth about \$2500⁰⁰.

Ques. 5 Are you acquainted with the plaintiff and the defendants in this suit? ~~and~~
 Ans I am.

Ques Where do they now reside?
 They all reside now in the state of Texas.

Ques Please state whether to your knowledge and ^{information} the infant defendants have any other property either real or personal, other than their interest in the tract of land in controversy?

Ans They have none that I know of; and my information is that they have none.

Question Judging from what you know of the land, and the infant defendants, and the general circumstances, would the interest of the infant heirs and defendants be promoted or retarded by the sale of said farm and their shares interest by order of Court until they arrive at their majority?

I would think their interest would be promoted by such a sale. The lands if cut up into shares, each infant would have ~~sell its~~ share at a sacrifice when it arrived at majority, and if they ^{should} wish to make Texas their future home, it would almost consume a share of said land to come to Virginia. To sell the same, while one share in said land would not be profitable as a home, if the owner thereof should desire it for such.

Ques. Would the interest of any one be prejudiced by such a sale, so far as you know?
 So far as I know it would not.

Ans. Have you any material interest in the outcome of this suit in any way?
 None whatever.

Attendance
 one day.
 50¢
 paid to
 J. C. Noel

And further this deponent says to wit:

J. F. Skaggs

No other witnesses appearing, the further taking of these depositions, is adjourned till Friday Feb. 16th 1900, at the same place, and between the same hours. This Feb 13, 1900

W. T. OTC D. P.

Office of J. C. Noel in the town of Pennington Va
 February 16 1900, the further taking of these depositions is resumed pursuant to adjournment.

W. T. OTC D. P.

Present, J. C. Noel Counsel for plaintiff.

H. O. Ballou Guardian ad litem for infant defendants.

F. K. Wilson, a witness of lawful age being duly sworn, deposes as follows:

Question State your age residence and occupation?

Ans.

I am 34 years old, my residence is Mill Lee County and am a farmer by occupation.

Question

Are you acquainted with the parties to this suit, that is, John B. Mary B. Sadie, Kittie Emma and Ernest - Larnier?

Ans

I am acquainted with them all.

Question

Where do the said parties now reside?

Ans They now reside in Greenville Texas.

Ques Have the infants defendants, Sada, Kattie, Emma and Ernest - Harmer, any property either real or personal, other than their interest in the lands in controversy in this suit?

Ans They have no other property that I know of.

Question Do you know the farm of which T. J. Harmer died seized, that is the land in controversy in this suit?

Ans I do.

Question What do you consider a fair cash value of said farm, subject to the widows dower?

Ans I think \$3000⁰⁰. would be a fair value for said lands.

Question Under the circumstances, would you consider that the interests of the infants ^{defendants} would be promoted ~~if said~~ by the sale of said farm, if it could be sold for at least \$3000⁰⁰.? If so state any reason or circumstance by which you arrive at your conclusion?

I believe that the interests of the infants would be promoted by such a sale, because the lands from their situation would bring more if sold as a whole, than they would bring to cut it up into six shares, and sold separately, besides the children reside now in Texas and to cut the lands up into shares, and each infant have to look

one day
50¢

the sale or rents of its share after it comes to its majority, the costs would about consume the proceeds, and one of the shares ^{alone} would not be a desirable home for any of said infants, while the interest on the money received from the sale of said lands would be more than the rents and profits could be on the farm in its present condition.

Question

Would the rights of any other person or persons be violated by the sale of said lands?

Ans

I know of none whose interests would be violated.

Question

Have you any personal interest in the result of this suit?

Ans

I have none whatever.

And further this defendant - sayeth not:
Frank H. Wilson

A. H. Mc Clure another witness of lawful age being duly sworn deposes of follows:

Question

one day
50¢

Please state whether or not you consider that the interests of the infant-defendants would be promoted by a sale of the lands in controversy? if so why?

I do. I am acquainted with the parties to this suit and the lands in controversy, and concur fully in the deposition of F. H. Wilson, which I have heard read, and ask that his deposition be read as mine.

And further this deponent - sayeth not.

A. H. Mc Clure

Lafayette Loyd, another witness of lawful age being duly sworn, deposes as follows:

Question Are you acquainted with Mary S. Garner
Charles L. Lytton, N. C. Lytton and Sarah
J. Daugherty, of Greenville Hunt-County Texas?

Ans. I am well acquainted with them all.

Question Do you consider them, from what you know of their financial condition, reasonably worth the sum of six thousand dollars; ~~and then~~

I do, I would be willing to risk them
on a bond of that sum.

Question I hand you a paper marked exhibit "A",
purporting to be a copy of the record of
of County Court of Hunt County Texas
as to the appointment, qualification and
bonding of Mary S. Larmer as guardian of
of ~~Eda~~ Eda, Kittie Emma and Court Larmer.
infant-defendants to this suit, which I ask
you to file as a part of said deposition?
Answer I file the paper as requested?

Asso I file the paper as requested?

Question Do you consider the bond if in legal form of which bond the paper you have just-filed, contains a copy, sufficient security for the money that may be due the said infants, arising from the sale of the land, in controversy in this suit?

I consider the said bond ample security for the money, and the faithful discharge of said duties.

Question Do you know the parties to this suit
and the lands in controversy?

I do.

Attendance
one day
50 cts

If the said lands, excepting the widows
dower, could be sold for three thousand
dollars or more, would the interests of
the infant-defendants be promoted by
such a sale?

I believe their interests would be
promoted by such a sale.

Have you any personal interest in
the sale of said lands, or the result of this
suit?

I have not.

And further this deponent says that:

^{Lafayette} ^{La} ^{County} ^{to wit:}
J. W. T. Orr, a Justice of the Peace for the county
of Lee in the said state do hereby certify
that the foregoing depositions of J. H. Skusey
F. K. Wilson, ~~and~~ A. K. McClure and Lafayette
Loyd, were duly taken, sworn to, and subscribed
before me, at the times and place, and for the
purpose therein mentioned.

Given under my hand this the 16 day
of Feb. 1900.

W. T. ORR J. P.

John S. Larmer
vs Depositions

Mary S. Larmer et al

Filed February 17th 1900

A. B. Munsey Clerk

Costs: J. P. 3 hrs \$2.25

J. F. Skaggs witness .60

F. H. Wilkins " .60

L. Lloyd " .60

A. H. McClure " .50

Constable J. Howard \$4.25

summons & writ .60

\$4.85

J. P.

John S. Garner

vs { In Chancery
Mary S. Garner et al.

To the Hon N. A. Skeen Judge of
the Circuit Court for Lee County.

Your undersigned Special
Commissioner, appointed at the
term of your honors court,
by a decree entered at said term
in the Chancery cause of John
S. Garner against Mary S. Garner
and others, for the purpose of selling
all the lands of which T. J. Garner
died seized, except the dower of his
widow Mary S. Garner; begs leave
to report that he advertised the
sale of said lands by posting notices
thereof, at the front door of the
Court house of Lee County, and
at Pennington Gap and Dryden
in said County for more than
30 days previous to date set for sale,
setting forth in said notices the
time, place, and terms of said sale,
and, at the time and place of
said sale, which was at the front
door of the Court-house of said
County, on the first day of the Oct:

term of the County Court, of said County during the noon recess of said Court, he offered the said lands for sale upon the terms of said decree and the terms set forth in said notices, that is to say on a credit of one, two and three years time with enough to be paid down to pay costs and commissions of said suit and sale; the deferred payments to be secured by notes with good security and a lien retained upon the land; and your said Commissioner continued to cry said land for a considerable time, but received no offers therefor as the ~~decree~~ restricted him to entertain no bids for a sum less than \$3000⁰⁰.

He then ~~will~~ drew the offer of said sale of the said lands for that time and readvertized the sale thereof for the first day of next or November term of the said County Court, according to the terms of said decree; and at the day, time and place appointed he again offered said lands for sale, but received no bids thereon, whereupon the public sale of said lands was

again withdrawn, and it publicly
announced by your said Commissioner
that he would entertain private
bids on said land, as the terms
of said decree ~~off~~ permitted said
Commissioner to sell said lands
privately. And on the 19 day
of Feb. 1901, one Henry Nicoll
offered to pay your said Commis-
sioner \$3000⁰⁰ in cash for said
lands, which offer was accepted
by your Commissioner, subject
to the approval of your honor.

This sale your Commissioner thinks
is the best that can be made
of said lands, and recommends,
that the same be affirmed as a
sale of said lands, and that a
Commissioner be appointed to
accept the said money and convey
the said lands to the said Henry
Nicoll. All of which is respectfully
submitted, This 20 day of Feb.
1901.

J. C. Noel Special Com.

John S. Garner
vs { Com Report-
of Sale.

Mary E. Garner et al
Filed February 20th 1901
A. B. Munsey Clerk

J. S. Garmer

²⁰
Mary E. Garmer et al }

To the Hon. H. A. W. Shew Judge of the
Circuit Court for Lee County:

Of our undersigned special Commissioner
who was appointed ^{in the above named cause} by a decretal order of your
honor's court on the 6th day of March 1901, to receive
and collect from Henry ~~Meall~~ Nicall the purchase
of the land sold in ^{said} ~~this~~ cause, by J. C. Noel, ~~of~~ ^{said} ~~the~~ ^{Commissioner of this Court;} to the said Henry Meall
for the sum of \$3000⁰⁰, and to execute to the
said Henry Nicall a deed for said land,
and to pay out said sum of the \$3000⁰⁰, as follows:
to wit: first - the costs and commissions of said
suit and sale, the residue one sixth to J. S. Garmer,
one sixth to Mary E. Garmer, and four sixths
~~of the residue~~ to Mary E. Garmer guardian
of the four infant defendants, to be invested by
her according to the laws of the state of Texas in
such cases made and provided; begs leave
to report, that pursuant to said decree, he collected
from said Henry Nicall the said sum of \$3000⁰⁰,
and made, executed and delivered to said Nicall a deed
for said lands, with covenants of special warranty.
This was done on the 23rd day of March 1901.
That he has paid out and disbursed according
to said decretal order the said \$3000⁰⁰ as follows:
(1) To the officers of the Court, Attorney Guardian and litigant
J. P. and witnesses, and taken their receipts therefor \$41.21.
To J. C. Noel Comr. \$ 69.50
(2) To J. S. Garmer, and taken his receipt therefor 481.63
(3) To Mary E. Garmer, and taken her receipt therefor 481.63
(4) To Sada Garmer who was an infant at the

time said sale was made, but- who has since
arrived at- the age of ~~20~~ twenty one years, \$487.63
and ^{has} taken her receipt- therefore.

(5) To Mary S. Garner guardian for
Kittie, Ernest- and Emma Garner \$1444.00.

Making a total of the said \$3000.00.

All which is respectfully submitted.
This 3rd day of June 1901.

J. C. Noel Special Comr.

J. S. Garner
20th of Distribution

Mary S. Garner

Filed in open Court
and by leave thereof
June 4th 1901

A. B. Munsey Clerk

John S. Garner }
vs } Dr Chancery
Mary S. Garner et al }

To the Honorable H. A. W. Skem Judge
of the Circuit Court of Lee County:

Your undersigned, Commissioner
appointed by a decretal order of your
honors Court, on the day of March
1901, to make Henry Nicoll a deed
for his purchase of land in the
above styled Cause, begs leave to
report that he on the 12 day of March
1901, that he made said deed
to the said Henry Nicoll for $\frac{4}{6}$ interest
in the lands of which T. J. Garner died
seized, subject to the dower of Mary
S. Garner widow of said T. J. Garner
deceased, the said $\frac{4}{6}$ interest being
the interests of the four infant
defendants, Sadie, Kitter, Emma and
Ernest Garner.

All of which is respectfully
submitted this March 12 1901,
J. C. Noel Com.

John S. Larnier
20 { Report of Com.
for Dec. 1.

Mary S. Larnier & al

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU THAT YOU SUMMON *Mary Larmer widow of Thos J Larmer deceased and assignee of Eda Barbree nee Larmer and Sada Larmer, Kitty Larmer, Ernest Larmer, and Emma Larmer Children and heirs at law of Thos J Larmer deceased*

to appear at the Clerk's office of the Circuit Court of the County of Lee at the court-house thereof, at the Rules to be holden for said Court, on the *3rd* Monday in *September*, 189*9*, to answer a bill in chancery, exhibited against *them* in our Court by

John S. Larmer

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *26th* day of *August*, 189*9*, and in the 12*4th* year of the Commonwealth.

A. B. Munsey Clerk.

A copy—Teste: _____ Clerk.

I do solemnly swear
that I executed the
within summons, on the
30th day of August
1899, by delivering a
true copy thereof to each
of the parties named
therein, to wit: Mary S.
Garner widow of T. J.
Garner, ^(deceased) Sada Garner,
Kitty Garner, Earnest-
Garner and Emma
Garner, children, and heirs
at law of T. J. Garner
(deceased) This Aug 5 1899,

J. C. Noel

Sworn and subscribed
to before me by J. C.
Noel, This 5 day of Sep
1899.

N. A. Baker J. P.

John S. Larner

VS. { SUBPOENA
IN CHANCERY.

Mary Larner et al

J. C. Noel p. q.

To 2nd Sept. Rules.

CIRCUIT COURT.
